

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:16-cv-445-RJC
(3:05-cr-14-RJC-1)**

ANTONIO STOWE MCDANIEL,)
)
 Petitioner,)
)
vs.)
)
UNITED STATES OF AMERICA,)
)
 Respondent.)

ORDER

THIS MATTER is before the Court sua sponte.

Petitioner filed a counseled Motion to Vacate pursuant to 28 U.S.C. § 2255 in the instant case, raising a claim pursuant to Johnson v. United States, 576 U.S. 591 (2015). [Doc. 1]. The Court ordered the United States to respond to the Motion to Vacate on August 16, 2016. [Doc. 4]. The matter was then stayed pending the Fourth Circuit’s resolution of United States v. Ali as well as this Court’s resolution of another § 2255 action filed by Petitioner, Case No. 3:16-cv-371-GCM. [Doc. 7]. The Court extended the stay after Ali was decided pending the Fourth Circuit’s resolution of Petitioner’s § 2255 appeal in Case No. -371, Fourth Cir. Case No. 20-7579. [Doc. 11]. The United States has 21 days following the Fourth Circuit’s issuance of its decision in Case No. 20-7579 to file an answer, motion, or to otherwise respond to the Motion to Vacate. [Id.].

The Court’s independent review of the record reveals that the Fourth Circuit issued its decision in Case No. 20-7579 on October 20, 2023. United States v. McDaniel, __ F.4th __, 2023 WL 6934544 (4th Cir. Oct. 20, 2023). The Clerk will, therefore, be instructed to lift the stay.

IT IS, THEREFORE, ORDERED that the Clerk of Court is instructed to **LIFT** the Order of Abeyance [Doc. 11] and reopen this case.

The Clerk is respectfully instructed to note the response due date on the Court's docket [see Doc. 11].

Signed: October 26, 2023

A handwritten signature in black ink, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
United States District Judge

